

**LEGISLATIVE SERVICES AGENCY  
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

200 W. Washington, Suite 301  
Indianapolis, IN 46204  
(317) 233-0696  
<http://www.in.gov/legislative>

**FISCAL IMPACT STATEMENT**

**LS 7172**

**BILL NUMBER: SB 422**

**NOTE PREPARED: Feb 2, 2004**

**BILL AMENDED: Feb 2, 2004**

**SUBJECT:** Various Election Law Matters.

**FIRST AUTHOR:** Sen. Lawson C

**FIRST SPONSOR:**

**BILL STATUS:** 2<sup>nd</sup> Reading - 1<sup>st</sup> House

**FUNDS AFFECTED:** ☒ **GENERAL**  
☒ **DEDICATED**  
**FEDERAL**

**IMPACT:** State & Local

**Summary of Legislation:** The bill provides that an absentee ballot application may not be given to a voter if any of the information has been filled out before the application is given to the voter. The bill requires an absentee ballot application to be filed within specific times. The bill requires an individual who files an absentee ballot application for another individual to sign an affidavit attesting to certain information. It also requires an applicant for an absentee ballot to affirm the content of the application under the penalties for perjury.

The bill permits a county election board member or an absentee voter board member to file an affidavit alleging that an absentee ballot application has not been filed according to law. The bill provides that a person may not engage in electioneering in the presence of an individual who possesses an absentee ballot. The bill requires certain persons who deliver an absentee ballot to a voter to affirm certain facts under penalties for perjury. The bill makes other changes relating to absentee ballots. The bill makes various changes in the procedures for certification of voting systems. The bill provides for extension of the deadline for completion of a recount or contest. The bill establishes new criminal offenses relating to fraud and misrepresentation in elections.

**Effective Date:** Upon passage; July 1, 2004.

**Explanation of State Expenditures:** *Election Forms-* The Election Commission would be required to prescribe absentee ballot application forms to comply with the bill not later than March 31, 2004. Additionally, the Commission would need to prescribe an official affidavit form for county election board use for individuals filing absentee ballots on behalf of other voters.

Under the bill, several items of additional information including more detailed description of voting systems

would be required of vendors when filing an application for certification of a voting system. The voting system application form (State form 45487, IEC-11) would need to be revised in order to account for the additional information a vendor would be required to provide under the bill.

The Election Division spent about \$2,600 for printing forms in FY 2003. The Commission's resources should be sufficient to develop the forms necessary to comply with the bill.

*Background:* The Election Commission reverted \$221,315 back to the state General Fund at the end of FY 2003. The Election Division was appropriated \$798,806 in FY 2003. Total Election Division expenditures during FY 2003 were estimated at \$761,251. The Election Division was appropriated \$794,571 in FY 2004 and \$725,571 in FY 2005.

*Certification of Voting Systems-* The Commission would be able to prohibit a vendor for an unapproved sale, lease, or marketing of a voting system (including hardware, firmware, or software) in Indiana. The prohibition may not exceed five years.

*Criminal Penalties-* The bill introduces several new criminal penalties, including Class C felony, Class D felony, and Class A misdemeanor provisions. Additionally, the bill upgrades several existing misdemeanor offenses to a felony.

A Class C felony is punishable by a prison term ranging from two to eight years depending upon mitigating and aggravating circumstances. A Class D felony is punishable by a prison term ranging from six months to three years or reduction to Class A misdemeanor depending upon mitigating and aggravating circumstances. If offenders can be housed in existing facilities with no additional staff, the average cost for medical care, food, and clothing is approximately \$1,825 annually, or \$5 daily, per prisoner. The average length of stay in Department of Correction (DOC) facilities for all Class C felony offenders is approximately two years. The average length of stay for all Class D felony offenders is approximately ten months.

**Explanation of State Revenues:** *Criminal Penalties-* If additional court cases occur and fines are collected, revenue to both the Common School Fund and the state General Fund would increase. The maximum fine for a Class C felony or a Class D felony is \$10,000. The maximum fine for a Class A misdemeanor is \$5,000. Criminal fines are deposited in the Common School Fund. If the case is filed in a circuit, superior, or county court, 70% of the \$120 court fee that is assessed and collected when a guilty verdict is entered would be deposited in the state General Fund. If the case is filed in a city or town court, 55% of the fee would be deposited in the state General Fund.

**Explanation of Local Expenditures:** *Absentee Ballots-* The bill would give local election officials additional responsibilities with regard to assisting persons with disabilities to fill out absentee ballot applications. The county election board would be able to deny applications for absentee ballots if applications were not filled out in compliance with the instructions provided in the bill. Under the bill, election officials would be able to file an affidavit that attested to improper procedures for filing an application for an absentee ballot. The county election board would conduct a hearing to approve or deny affidavits.

Under the bill, county election boards would be required to provide a copy of the "Absentee Voter's Bill of Rights" in an absentee ballot mailed to a voter. This provision would increase the printing costs to the county election board in order to provide copies of the "Absentee Voter's Bill of Rights."

*Illegal Voter Affidavits-* Under current law, the inspector and a judge take a sealed bag of affidavits to the county election board after an election. Under the bill, county election boards would be charged with the

following additional administrative responsibilities upon receipt of an affidavit bag: (1) Remove affidavits from the bag, (2) Mail a copy of each affidavit to the Secretary of State, (3) Replace the affidavits within the bag, (4) Reseal the bag and include endorsement of each county election board member.

*Criminal Penalties-* If more defendants are detained in county jails prior to their court hearings, local expenditures for jail operations may increase. The average cost per day is approximately \$44.

**Explanation of Local Revenues:** *Criminal Penalties-* If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from the following sources: (1) The county general fund would receive 27% of the \$120 court fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. If the case is filed in a city or town court, 20% of the court fee would be deposited in the county general fund and 25% would be deposited in the city or town general fund. (2) A \$3 fee would be assessed and, if collected, would be deposited into the county law enforcement continuing education fund. (3) A \$2 jury fee is assessed and, if collected, would be deposited into the county user fee fund to supplement the compensation of jury members.

**State Agencies Affected:** Department of Correction.

**Local Agencies Affected:** Trial courts, local law enforcement agencies.

**Information Sources:** State Budget Agency: *FY2003 General and Rainy Day Fund Summaries*, BUDSTARS; Indiana Sheriffs' Association, Department of Correction; Auditor of State, Object Trial Balance 6/30/03.

**Fiscal Analyst:** Chris Baker, 317-232-9851.